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Special Master

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, *Plaintiff,* v. ROBERTO HECKSCHER, *Defendant.*	Case No. CR 09-0998-SI **REPORT OF THE SPECIAL MASTER AND REQUEST FOR APPROVAL OF DISTRIBUTION METHODOLOGY**

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Special Master Martin H. Dodd submits this Report and Request for Approval of his proposed distribution methodology.

I. INTRODUCTION

A. Appointment Of, And Task Assigned To, The Special Master

The Special Master was appointed on October 1, 2010 and tasked with developing a methodology for distributing the very limited funds available for restitution to victims of the fraud perpetrated by defendant Roberto Heckscher.[1] The Order Appointing the Special Master required him to develop a plan of distribution pursuant to 18 U.S.C. § 3664(i) which provides in pertinent part:

> If the court finds that more than 1 victim has sustained a loss requiring restitution by a defendant, the court may provide for a different payment schedule for each victim based on the type and amount of each victim's loss and accounting for the economic circumstances of each victim.

In enacting the statute, Congress expressed an apparent belief that a plan of distribution to victims can, perhaps should, take the victims' individual financial and personal circumstances into consideration.

B. Communications With Investors

Shortly after his appointment, the Special Master sent a letter to all investors briefly describing his appointment and his assignment. The Special Master also provided investors with a link on his firm's website (www.fddcm.com) which directs them to a blog containing updates on his activities. As discussed more fully below, the Special Master prepared a questionnaire which he then sent to investors. He has also fielded a number of telephone calls, emails and letters from investors. The Special Master has given notice to the investors of the filing of this Report and will post the Report on his firm's website for interested investors to download, read and review prior to the hearing on August 31, 2011.

[1] At the outset the Special Master wishes to express his appreciation for the cooperation provided by the U.S. Attorney, counsel for Mr. Heckscher, the FBI agent assigned to the case and employees in the Victim Impact unit.

C. Data Regarding Investors Which Was Made Available To The Special Master And The Special Master's Analysis Of That Data

The FBI and the U.S. Attorney compiled a substantial amount of information about the defrauded investors. Sources for that information included Heckscher's own records and the investors themselves. Because Heckscher's fraud spanned decades, there were understandable gaps in the financial information which investors themselves could provide. Quite a few investors did not respond at all to the Government's inquiries. And, although Heckscher's records were detailed, even those records were not 100% complete or accurate. Despite these limitations, the Government put together reasonably complete spreadsheets with a wealth of information about the investors, their investments and their losses as calculated by the Government.

At the Special Master's request, the Government provided him with the spreadsheets it had compiled on the identity and contact information for investors, the outstanding principal amount invested by each investor, the returns which investors may have received from Heckscher and the estimated net loss for each investor. Those spreadsheets reveal that Heckscher's fraud ensnared more than 300 investors whose net loss (as calculated by the Government) exceeded $35 million. The Government also supplied the Special Master with copies of investor responses to victim impact questionnaires.

The Special Master developed a separate questionnaire which sought basic information about the investors including age, occupation, marital status and the like and requested two types of financial information: gross monthly income and expenses and assets and liabilities.[2] The Special Master sent the questionnaire, with an explanatory letter, to the 300 or so investors identified in the Government's database. A few were returned undeliverable. Approximately 175 investors responded in some fashion to the Special Master. Most returned completed questionnaires; a few returned uncompleted questionnaires; a few responded to say that they had no interest in participating in any distribution. After reviewing the questionnaire responses, the Special Master followed up with requests to about 15 investors for additional information; only a

[2] A copy of the questionnaire is attached as Exhibit A.

few responded to the further inquiries. The answers to the questionnaires reveal that investors are typically of modest means and are in late middle age or elderly. A few have very substantial assets, but many are struggling mightily to survive in the wake of. Heckscher's fraud.

The Special Master closely reviewed the Government's investment and loss calculations by combing through the spreadsheets and accompanying notes, as well as the documents and information from the investors' responses to the Government's and the Special Master's respective questionnaires to arrive at each investor's total principal amount invested with and total amount received from Heckscher.

D. Loss Calculation

The Special Master's calculation of the loss for each investor for purposes of the distribution differs in certain respects from the loss as calculated by the Government.[3] To determine the loss in connection with the underlying case against Heckscher, the Government started with the outstanding principal amount for each investor as of the Spring of 2009 and as reflected in Heckscher's records (with some modifications based on information received from investors). As a result, the outstanding principal amount as determined by the Government was *net of any principal repayments* which may have been made to the investors from time to time over the years. To arrive at a net loss figure, the Government deducted from the outstanding principal amount any "interest" payments which may have been made to the investor.

It appears that the Government relied very heavily, if not exclusively, on self-reporting by investors as to how much interest they may have received over time. Understandably, many investors – particularly long-term investors – did not have accurate or complete records. Often they produced copies of their promissory notes, but were unable to recreate the record of the amount of interest received. It does not appear that the Government attempted to calculate interest in the absence of such records. Thus, in some instances, even though an investor may have been receiving interest payments from Heckscher for many years, the Government's interest calculation tended to reflect only documented interest receipts.

[3] That the Special Master has taken a somewhat different approach than the Government is by no means intended as a criticism of the extraordinarily detailed work done by the FBI and the U.S. Attorney's office. The Special Master could not have completed his tasks without the invaluable assistance provided by the Government.

The Special Master has approached the issued differently because of the need to arrive at loss calculations for purposes of distributing the funds. The Special Master has attempted to arrive at a total principal amount invested over time by each investor, reduced by the total amount of *principal and* interest payments received, to arrive at a net loss figure. This approach proceeds from the premise that all funds which Heckscher received from and paid to investors were "principal," no matter how he may have characterized them in his dealings with investors. The hallmark of pyramid or Ponzi schemes, like that here, is that victims who receive "interest" on their investment or "principal repayments" *are, in fact, being paid with other investors' money.* One investor's direct benefit is another investor's direct loss because there are no actual investment returns and no investor's principal has actually been preserved. Interest payments and principal repayments are thus functionally no different from one another. In short, all that Heckscher did was to cycle and recycle principal among the investors. Accordingly, since all payments to investors were effectively repayments of principal, it is necessary to determine the total amount which each investor actually gave to Heckscher and the total amount of all payments actually received in order to calculate the true loss of principal for each investor.

The accuracy of the loss calculation is, of course, limited by the accuracy and completeness of the data available. Not all investors had complete records. Some lacked anything more than copies of promissory notes and not all investors' promissory notes stated an interest rate (although interest was apparently paid); some investors were able to reconstruct their entire investment and payment history; some had no information or failed to provide any information; most fell somewhere in between. All that said, because Heckscher apparently regularly paid "interest" to virtually all investors (until the end), the Special Master has assumed that all investors, except perhaps those at the very end, received some interest in some amount. The available records bear out this assumption. For those investors with a complete record of promissory notes with stated interest rates, calculating interest presumably received over time was relatively simple, even where the investor did not have a record of all interest payments. However, because quite a few investors lacked complete records, the Special Master has endeavored to make conservative estimates of interest payments received by such investors based on the limited information available. In some cases, the Special Master had nothing more than an ending principal amount, an ending interest rate and a date of first investment from which to try and determine interest paid over time. In a few instances, however, even that limited universe of information was not available.

The Special Master recognizes that such estimates may over- or understate the interest actually paid to certain investors, and that the resulting loss calculation is only an estimate. But failing to account for any presumed interest to investors, particularly long-term investors, simply because they lacked complete records or declined to provide records would substantially, and unfairly, overstate such investors' loss. In the end, there remain significant gaps in the information about the investments which cannot adequately be filled and, however calculated, **the losses upon which the proposed distribution is based are best estimates derived from the data available**.

E. Funds Available For Distribution

Two parcels of real property which Heckscher owned outright or as a tenant-in-common were sold previously and the proceeds have been set aside in his attorney's trust account for the benefit of the investors. The account currently holds approximately **$465,000**.

F. Assets Which May Be Available To Investors Who Have Engaged In Self Help

A third parcel of real property owned by Heckscher is potentially available for sale for the benefit of investors generally; however, that property is encumbered by judgment liens which, in total, exceed the value of the property. Two of those judgment liens are held by victims of Heckscher's fraud who have requested participation in the distribution by the Special Master. This issue is discussed more fully below.

In addition, in response to demands for repayment by a number of investors, Heckscher purchased a term life insurance policy on his life with a face value of $4 million and named about a dozen investors as beneficiaries in the approximate amount of their initial investments. The Special Master understands that certain investors (who did not return questionnaires to the Special Master) have continued that policy in force at their own expense. Certain other investor-beneficiaries have submitted questionnaires to the Special Master and presumably hope to participate in any distribution. Provided the policy remains in effect, at the point at which Heckscher passes away, it appears the investor-beneficiaries or their estates will receive very substantial payouts which will return to them a face amount roughly equal to their initial investments. The impact of this life insurance policy is also discussed below.

G. Investors Whom The Special Master Believes Should And Should Not Share In The Proposed Distribution

In light of the very limited funds available for investors, the Special Master believes that his distribution should be limited, as an initial matter, to investors who responded to his questionnaire.[4] Non-responders should not participate for at least two reasons. The Special Master lacks complete income and net worth information about those who did not respond, and therefore he would be hampered in his ability to take those circumstances into consideration as permitted by 18 U.S.C. 3664(i). In addition, it seems fair to assume that investors who chose not to respond to the Special Master's inquiries are not interested in participating in the distribution.

The Special Master also believes that certain of the *responding* investors should not participate in the distribution or should participate only to a limited extent. First, a couple of investors who returned questionnaires have declined to respond to the Special Master's follow-up inquiries about the amount of their investment, repayment history and loss information. The Government also lacked information about these individuals. As a result, there is no information upon which to determine whether, and to what extent, they should participate. Second, responding investors who have recorded judgment liens or who are beneficiaries of Heckscher's life insurance policy should not to be permitted to participate in the distribution unless they agree to assign their rights in the judgments or insurance policy to the Court or the Government for the benefit of <u>all</u> investors.[5] Since these investors stand to benefit, perhaps quite substantially, from sources of recovery which are not available to investors generally, the Special Master believes

[4] The Special Master is not suggesting, however, that non-responding investors should be precluded from participating in or receiving any future restitution which may be available. His recommendation is made solely with respect to the distribution described in this Report.

[5] The precise form which the assignment will take can be worked out when, and if, any of the affected investors agree to the assignment.

they should be permitted to participate in the distribution only if they are willing to "contribute" the fruits of their self-help for the benefit of the group.

Third, as described more fully below, certain responding investors have already received from Heckscher in the form of "principal" and/or "interest" more than 100% of their original investment. Since there are insufficient funds to compensate investors generally to the same extent, the Special Master believes that equity dictates that investors who have already received at least the amount of their investment should not be considered for participation in the distribution.

II. PROPOSED DISTRIBUTION METHODOLOGY

A. Introduction

Where, as here, the funds available for distribution to investors are dwarfed by the magnitude of the investors' losses, no method of distribution will make the investors whole; far from it. Frequently in cases of mass investment fraud the simplest method of distribution is to divide the funds pro rata based upon the ratio of an individual investor's loss to the total loss for all investors. Each investor receives his/her pro rata share of a very small pie. This method draws no distinctions between investors beyond the scale of their respective losses. Those with the greatest numerical loss receive the greatest portion of the recovery. Indeed, a number of investors, upon learning that the Special Master might take individual financial circumstances into consideration, objected strenuously and requested that he apply a strict pro rata methodology.

Despite its outward fairness, the pro rata methodology is inherently inequitable in at least two respects. First, as discussed previously, all returns to investors were functionally returns of principal. Some investors received substantial amounts from Heckscher over the years which were, as a practical matter, other investors' funds. It is often the early investors or those who insist most strongly on repayment who "benefit" from the other investors' misfortune.[6] Indeed, a number of investors were repaid, in one form or another, amounts which very nearly equaled, and

[6] This was particularly true here since the scheme went on for decades and some early investors received very substantial payouts of "interest" – often at very high rates which they could not achieve in the marketplace – funded by later investors.

in some cases exceeded, their total principal investment. A distribution which fails to take this characteristic of a Ponzi scheme into consideration threatens to over-compensate even more those investors fortunate enough to have been paid the most in phony returns.

Second, it is sometimes the case that those with the greatest monetary loss have significantly greater assets than the investors generally and are thus better positioned to absorb the loss than investors who risked smaller amounts but did so from a smaller asset base. The multi-millionaire who loses $100,000 is likely to be better able to withstand the loss than a retiree, living on Social Security, whose $10,000 investment comprised his life's savings.

If a strict pro rata method obscures its potential for unfairness, developing a distribution plan that deviates from a pro rata distribution carries its own risks. Drawing distinctions between investors necessarily complicates the distribution process since each investor is unique and likely – even understandably – will consider himself/herself as deserving of special consideration. Moreover, making judgments as to whether one investor should receive a relatively greater portion of a very limited recovery than another can be subjective and where, as here, the data for calculating the loss is incomplete, potentially prone to error.

With these competing considerations in mind, the Special Master has adopted a hybrid approach. As indicated below, the Special Master intends to allocate funds for distribution among groups of investors based on their relative need. Then, within each such group, 75% of the available funds will be utilized to equalize the percentage return among investors in the group to the extent possible. The remaining 25% of funds available to each group will be distributed pro rata based on the magnitude of the losses among the investors within each group. In this way, all investors eligible to participate will receive some portion of the distributable funds. Distributing some funds to everyone is also an effort to compensate, to some extent, for any errors that arise from using estimated loss calculations in a number of cases.

The Special Master recognizes that there will be investors who will be unsatisfied with the results of his proposed methodology. In fact, the Special Master will be the first to say that the proposed plan is not perfect. But it represents a good faith effort to make what has been a horrific disaster for hundreds of people somewhat less devastating.

B. The Scoring Matrix

As the first step in developing a distribution plan, the Special Master utilized three matrices based on the questionnaire responses, one of which gave a score of 0-10 based on the investor's gross income by age, the second of which was scored 0-10 based on net worth by age and the third of which gave a score of 0-10 based on the investor's loss as a percentage of net worth by age.[7] The matrices are attached as Exhibit B. Each investor was assigned a score equal to the sum of that investor's assigned values from the matrices. The lowest score possible was 0; the highest score possible was 30.

The rationale behind this approach is that, in general, the impact of a significant financial loss is likely greater as the age of the investor increased. To take a simple example: A gainfully employed person aged 35 generally will have more years to work, save and recover from the fraud than does a 70 year old retiree, living on a fixed income. Thus, as between two investors with roughly equal income, assets and percentage loss, the older investor received a higher score than the younger investor.[8]

Excluding investors who had already received 100% or more of their investment amount from Heckscher, the number of responding investors in each matrix score category is as follows:

Score	**Number of Investors**[9]
0	22
1	12
2	3
3	6
4	4
5	2
6	5

[7] If the investor questionnaire revealed that the investor was disabled and unable or with limited ability to work, the investor was treated as falling into the age 62+ category without regard to the investor's chronological age.
[8] On the other hand, an elderly, but wealthy, investor might score lower than a younger, less wealthy, investor.
[9] The number of investors in each category remains subject to change since the Special Master is still seeking information from some investors. Several investors responded by declining to participate in any distribution. They are not included in the table.

Score	Number of Investors[9]
7	6
8	2
9	2
10	8
11	8
12	9
13	11
14	4
15	4
16	6
17	5
18	8
19	2
20	8
21	5
22	4
23	4
24	0
25	0
26	0
27	4
28	4
29	5
30	3
Total	166

The "0" score category is something of a catchall. It includes investors who actually scored 0 but, importantly, it includes a number of investors who returned the questionnaire, but declined for various reasons to provide necessary information requested by the Special Master. The Special Master was without information from these investors to make any determinations regarding the category in which they belonged. Finally, the "0" category includes investors for whom the income and net worth categories do not strictly apply: the estates or trusts of deceased investors, a family partnership and at least one charitable organization which invested with Heckscher.

After compiling the scores, the Special Master then reviewed the investor questionnaires more closely to determine whether they revealed other factors, such as illness, loss of employment, or other unique circumstances, which suggested that the particular investor should receive a higher or lower score. In several instances, this review resulted in investors receiving slightly higher scores. In one instance, an investor had such a large net worth that the investor was given a score of "0" even though the investor's age and self-reported income would have resulted in a score somewhat above zero.

C. Investor Classes

Next, the Special Master gathered the investors into seven "classes," grouped by numeric scores, and allocated a percentage of the distributable funds to each class.

Class	Numeric Scores in Class	Number of Investors Currently in Class	Proposed Allocation of Distributable Funds
1	0	22	7%
2	1-4	25	8%
3	5-9	17	9%
4	10-14	40	14%
5	15-19	25	17%
6	20-25	21	20%
7	26-30	16	25%
Total		166	100%

As the chart above indicates, and in keeping with Section 3664(i), the Special Master proposes an allocation of the distributable funds that is weighted according to the economic resources available to the investor. The Special Master proposes that the group comprised of investors with the age-adjusted lowest incomes and net worth and largest percentage loss relative to net worth (class 7) should be allocated 25% of the distributable funds. Class 1 will be allocated only 7% of the distributable funds.

D. Calculation Of Distributable Shares

As indicated above, the Special Master assumes that ***all returns to investors were returns of principal, even if characterized by Heckscher as interest.*** This assumption will impact the distribution in the following way: all amounts invested by, and all amounts returned to, the investor (to the extent they can be determined from the records) must be considered in determining whether and to what extent that investor should participate in the distribution. A simple example will demonstrate why. Assume that Investor A invested $100,000 and was repaid $80,000 in "interest" comprised *of other investors' money*, leaving a $20,000 loss. Investor A has gotten back 80% of the amount he invested. Assume Investor B invested $20,000 and received nothing in return. Though both have a net loss of $20,000, Investor B is relatively worse off; all the more so if some or all of Investor B's $20,000 was used to pay "interest" to Investor A.

With the foregoing as backdrop, the variables which the Special Master proposes will determine the actual distribution to each investor are the following: (1) The total principal amount for all investors in each class; (2) the total principal amount of each investor's investment; (3) the amounts, if any, which investors may have already received from Heckscher; (4) the percentage return each investor has received; and (5) the funds available to distribute to the class. The distributable amounts will be calculated according to the following steps.

Step 1: The Special Master will calculate the percentage return for each investor within a class, based on the total principal invested with, and total principal and interest payments received from, Heckscher.

Example 1: Assume five investors in a class. Investor A invested $500,000 and received $30,000 (i.e., 6%) from Heckscher; Investor B invested $100,000 and received $90,000 (90%); Investor C invested $50,000 and received $10,000 (20%); Investor D invested $250,000 and received $50,000 (20%); and Investor E invested $100,000 and received $10,000 (10%).

Step 2: The Special Master will distribute 75% of the proceeds available to that class starting with the investor who had the lowest percentage return. In a series of allocations, the Special Master will endeavor to achieve as nearly equal a percentage return across the class as mathematically possible until the 75% allotment of funds for that class is depleted.

Example 2: Assume that $200,000 total is available to distribute to the investors in Example 1. Of that amount, $150,000 (75%) is available to distribute at this step. Investor A has the lowest percentage return (6%) and Investor E has the next lowest at 10%. In the first allocation, Investor A will receive an allocation that will attempt to bring her to at least 10% as follows: $500,000 x .10 = $50,000 – ($30,000 previously received from Heckscher) = <u>$20,000</u> as the initial allocation to Investor A.

Now that Investors A and E have each received a return of 10%, the next round of allocations will be to attempt to bring A and E to a 20% return, like that already achieved by Investors C and D, as follows:

Investor A: $500,000 x .20 = $100,000 – ($50,000 already received) = <u>$50,000</u>.

Investor E: $100,000 x .20 = $20,000 – ($10,000 already received) = <u>$10,000</u>.

After the first two rounds, $80,000 has been distributed and Investors A, C, D and E have each achieved a 20% return between the combination of funds received from Heckscher and the distribution. The $70,000 still remaining to be distributed at this step can then be divided pro rata among the four of them according to the following formula: $70,000 ÷ $720,000 (i.e., the total loss among investors A, C, D and E after the initial distributions) = .097 (i.e., 9.7%). As a result, investors A, C, D and E will each receive roughly an additional ten cents for every dollar of loss at this step. As a result, these four investors will have achieved a return of approximately 30%. **Note that because Investor B received a 90% return from Heckscher, and there are**

insufficient funds to bring the other four investors to a 90% return, Investor B will not participate in the distribution of the allotted 75%.

Step 3: At this step, the remaining 25% (i.e., $50,000) to be distributed will be divided among all *five* investors based upon their respective losses. In other words, only at this stage would Investor B receive any return.[10] Although it remains the case that Investor B will have achieved a greater overall return than the other four, the returns have been equalized to the extent possible and each investor has gotten something from the limited funds available. No investor will be permitted to receive more than 100% of the total principal amount of his/her investment.

Step 4: If, in the very unlikely event, all investors in a class have achieved a 100% return and funds still remain for distribution, those funds will be allocated to the next lower class for distribution.

E. Proposed Authorization

If the Court approves the Special Master's proposed methodology in concept, then the Special Master requests that the Court authorize him to proceed as follows:

1. He will contact those responding investors who have judgment liens and/or are beneficiaries of the life insurance policy and ask whether they are willing to assign their rights in return for participation in the distribution. Any such investor who has not responded by September 30, 2011 will be deemed to have decided not to participate. If any such investor decides to assign his/her rights as a condition of participation, then the Special Master will work with the investor and the U.S. Attorney's office to effectuate the assignment.

2. Then, using the methodology approved by the Court, the Special Master will develop a schedule of proposed amounts to be distributed to the eligible investors ("Qualified Investors") in each class. To protect the investors' financial privacy, each of the Qualified Investors will be identified by a three-digit number (001, 002, etc.).

[10] In the example above, at this step the remaining total loss for all five investors would be $660,000. Because $50,000 remains to be distributed, each of the investors will receive a 7.6% return.

3. The Special Master will then file the schedule with the Court by October 17, 2011, and notify each investor of his/her identification number, investor class, and proposed distribution amount and how she/he can obtain a copy of the distribution schedule.

4. Any objections to the proposed distribution must be made in writing, filed with the Court and served on the Special Master and parties within 21 days thereafter. The Special Master will have 14 days to respond. The Special Master will file any investor information pertaining to the investor in question under seal with the Court. No reply and no hearing will be permitted unless the Court orders otherwise. A failure by any Qualified Investor to object within the allotted 21-day period should operate as a bar to any such objection. If, at the end of the initial 21-day period, no objection has been filed by any Qualified Investor, the distribution schedule will be deemed approved and the Special Master will make the distribution as proposed.

5. In the event any objection is filed, the distribution to all investors will be placed on hold until the Court rules on the objection. If any objection is sustained in whole or in part, the Special Master will amend the distribution schedule and file it with the Court within 14 days after entry of the order sustaining the objection and then undertake the distribution.

6. Following the distribution, the Special Master will file a brief report with the Court reflecting that the distribution has been made and requesting that he be discharged as Special Master.

Dated: July 22, 2011

Respectfully submitted,

By: /s/ Martin H. Dodd
Martin H. Dodd
Special Master

EXHIBIT A

March 14, 2011

Asset Distribution to Investor-Victims
in
U.S. v. Roberto Heckscher,
Case No. CR 09-0998 SI (U.S. Dist. Ct., Northern District of California)

Dear Investor-Victim:

I have been appointed as the Special Master in the above case, and have been charged with the responsibility of recommending to the Court an equitable distribution plan for the limited funds which are available to reimburse investors defrauded by Roberto Heckscher. I have many years experience developing and implementing reimbursement plans in similar cases and was recommended for this assignment by counsel for both the Government and Mr. Heckscher. U.S. District Judge Susan Illston, who is presiding over Mr. Heckscher's case, appointed me on October 1, 2010.

Typically, a Special Master appointed in these circumstances would be compensated from funds recovered from the wrongdoer and any net funds remaining would then be distributed to investors. Because there are very limited amounts available for distribution in this instance compared to the estimated losses, I have agreed to take on this assignment without compensation. As a result, all funds recovered will be available for distribution to you and other investors.

Substantial work has already been completed by the Government to lay the foundation for the distribution. We estimate that there were approximately 290 investor-victims in total; 236 investors, or slightly more than 80% of the total, responded to questionnaires sent by the Government seeking information about when and how much they each invested, the amounts, if any, Mr. Heckscher returned to them in the form of "interest" or principal, and the net loss that each investor-victim sustained, after accounting for any monies returned. The estimated total amount invested by the 236 investor-victims who responded to the Government's inquiries exceeded $47 million. Mr. Heckscher returned to those investors, in the form of "interest" and principal, approximately $13 million over the 30-year period in which he operated, leaving a net loss to those 236 investor-victims of almost $35 million.

We estimate that there will be less than $1 million to distribute. With Mr. Heckscher's cooperation, two parcels of real estate in which he and/or his wife had an interest have been sold. The proceeds are being held in an account administered by the Court. Another parcel of property is potentially available if competing claims to it can be resolved satisfactorily.

As I mentioned above, my primary task is to develop an equitable plan of distribution of the very limited funds available. In order to do so, I will need information from you and other investor-victims. I realize that you have already provided a good deal of information in response to the Government's inquiries. The information I will need is somewhat different. Accordingly, you will find enclosed a form which requests information about your income, expenses, assets and liabilities. Please complete the form to the best of your ability, sign it where indicated on page 3 and return it to me by no later than **April 15, 2011**. The completed questionnaire should be sent to the following address:

Futterman Dupree Dodd Croley Maier LLP
C/o Martin H. Dodd
Special Master
180 Sansome St., 17th Floor
San Francisco, CA 94104

After I have received the responses, I will review them carefully and then develop a proposed plan of distribution which I will present to the Court for approval. You will be entitled to receive a copy of the proposed plan of distribution, together with an explanation of my reasoning in developing the plan, and notice of the date on which the Court will consider the plan.

I understand that you likely do or will have many questions about the process and that you would like to be compensated as quickly as possible. Please continue to be patient. Rest assured that I will work as promptly as possible given the complexity of this case and the number of investor-victims involved. To provide you with information concerning my progress, beginning sometime within the next 30 days, I will occasionally post updates at www.fddcm.com. Please feel free to visit the website and look for the link regarding *U.S. v. Heckscher*. In the meantime, if you have questions, you may email them to me at heckschersm@fddcm.com.

Very truly yours,

/s/

Martin H. Dodd
Court-appointed Special Master

Encl.

cc: Timothy Lucey, Esq. (w/encl.)

U.S. v. Heckscher
INVESTOR-VICTIM INCOME/NET WORTH QUESTIONNAIRE

A. PERSONAL INFORMATION

Name: ______________________________

Social Security Number: ________________

Address: ______________________________

____

Telephone: ______________________

E-mail: ______________________________

Date of birth: ______________________

Married/Registered Domestic Partner?

Yes:________ No:________

Spouse/Partner's Name:

____

Currently employed?

Yes:________ No:________

If no, are you retired? Yes:______No:______

Name/Address of current Employer:

____

____

Occupation: ______________________________

How long at this job? ______ years _____ months

List all other employers within last 5 years on attached worksheet

B. AVERAGE MONTHLY INCOME/EXPENSE

1. INCOME

Wages/salary/tips: $______________

Bonus/commissions: $______________

Self-employment: $______________

Alimony/spousal support: $______________

Social Security: $______________

Other government benefits: $______________

Other income (e.g., rental income, interest, dividends; **list on work sheet**): $______________

Total: $______________

2. EXPENSE

Mortgage payment or rent: $______________

Homeowners/renters insurance: $______________

Automobile insurance: $______________

Real estate taxes: $______________

Utilities (gas, electricity, water): $______________

Medical/Medications: $______________

Food: $______________

Other recurring expenses (**list on worksheet**): $______________

Total: $______________

Your initials:________

C. NET WORTH SCHEDULE

1. ASSETS

Estimated fair market value of all real estate owned: $________________

Estimated fair market value of all automobiles owned: $________________

Estimated fair market value of all valuables (jewelry, art work, etc.): $________________

Estimated fair market value of all other personal property (e.g., furniture, boats, recreational vehicles, mobile homes): $________________

Cash and cash equivalents (e.g., checking, savings and money market accounts, CDs): $________________

Current principal balance on notes/loans owing **to** you: $________________

Non-retirement investments (stocks, bonds, mutual funds): $________________

Retirement accounts (IRAs, 401k, etc.): $________________

All other assets (e.g., property held for you in trust; patents): $________________

Total: $________________________

2. LIABILITIES

Current principal balance of all real estate loans: $________________

Current principal balance Of all vehicle loans: $________________

Current principal balance of all other loans owing **from** you: $________________

Outstanding balance on credit card accounts: $________________

Other outstanding debts (e.g., judgments, tax liens): $________________

Total: $________________________

Your initials:__________

WORK SHEET

Use this work sheet to provide detailed information about income, expenses, assets and liabilities requested on the schedules or other information which you believe is relevant to an understanding of your financial circumstances. Use additional sheets as necessary.

I DECLARE UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE INFORMATION PROVIDED ON EACH PAGE OF THIS INVESTOR INCOME/NET WORTH QUESTIONNAIRE IS TRUE AND CORRECT. I UNDERSTAND THAT KNOWINGLY MAKING A FALSE STATEMENT AND/OR CAUSING ANOTHER TO DO SO MAY CONSTITUTE PERJURY, SUBORNATION OF PERJURY, FALSE STATEMENTS TO THE GOVERNMENT, AND/OR CONTEMPT OF COURT, IN VIOLATION OF 18 U.S.C. § §401-403, 1001, AND 1621-1623.

Date: ______________________________

Signature: ______________________________

INSTRUCTIONS FOR COMPLETING
INVESTOR-VICTIM INCOME/NET WORTH QUESTIONNAIRE

General Instructions

Please type or write legibly and complete each section to the best of your ability.

Please initial each page at the bottom where indicated.

You **must** sign the Worksheet page (page 3) where indicated, even if you have not included any information on the Worksheet. **Failure to do so may disqualify you from participation in any distribution.**

Use the Worksheet to provide detail about particular items on the questionnaire or to include other information which you believe is relevant to an understanding of your financial circumstances.

After you have completed and signed the questionnaire, make a copy for your files. Then send the signed original, with any documentation, so that it is received by the Special Master no later than **April 15, 2011.** Please send the signed questionnaire to the following address:

Futterman Dupree Dodd Croley Maier LLP
c/o Martin H. Dodd
Special Master
180 Sansome St., 17th Floor
San Francisco, CA 94104

Section A – Personal Information

Please be sure to include an address, telephone number and other information which will permit the Special Master to contact you.

Section B – Monthly Income/Expense

You should identify the amounts of all sources of monthly income, including income earned or received by your spouse/registered domestic partner.

List other income sources and recurring expenses on the Worksheet.

Section C – Net Worth

Assets

Set out the total estimated fair market value of all real estate you own. On the worksheet, with respect to **each** parcel of real property which you own, please provide the date the property was acquired, its location, whether it is residential or commercial property, whether you own it personally, in trust or with another person or entity and the estimated fair market value.

On the worksheet, identify the make, model and year for each automobile owned.

With respect to loans owing to you, please set out the total principal balance owing on all loans. On the worksheet, with respect to **each** loan, please identify the borrower, the original principal balance of the loan, the current principal balance, the interest rate and terms of repayment.

With respect to other assets, on the worksheet, identify the type of asset, whether it is owned by you personally, in trust or with another person or entity and the estimated fair market value.

Liabilities

With respect to each real property loan, on the worksheet, please state the location of the property which secures the loan, the current principal balance of the loan, the interest rate, the name and address of the lender and the terms of repayment. Alternatively, you may attach a copy of the promissory to the worksheet.

With respect to all other loans in which you are the borrower, on the worksheet, please state the current principal balance of the loan, the interest rate, the name and address of the lender and the terms of repayment. Alternatively, you may attach a copy of the promissory note to the worksheet.

With respect to other liabilities, on the worksheet, please describe the liability, the amount owing and the terms, if any, of repayment.

EXHIBIT B

Income by Age							
Age	>150k	100-150k	80-100k	60-80k	40-60k	25-40k	<25k
Unk-18	0	0	0	0	0	0	0
19-24	0	0	0	0	0	0	1
25-34	0	0	0	0	1	1	2
35-44	0	1	1	2	2	3	4
45-54	0	1	2	3	4	6	8
55-61	1	2	3	5	6	8	9
62+	1	2	3	5	7	9	10

Net Worth by Age									
Age	>2.5m	2-2.5m	1.5-2.0m	1.0-1.5m	750k-1.0m	500k-750k	250k-500k	100k-250k	<100k
Unk-25	0	0	0	0	0	0	0	0	0
26-34	0	0	0	0	0	0	0	1	2
35-44	0	0	0	1	2	3	4	5	6
45-54	0	0	1	2	3	4	5	6	7
55-61	0	0	1	2	4	5	6	8	9
62+	0	0	1	2	4	6	8	9	10

Loss as Percentage of Net Worth by Age							
Age	<5%	5-14%	15-20%	21-24%	25-29%	30-39%	>40%
Unk-25	0	0	0	0	0	0	1
26-34	0	0	1	0	2	3	4
35-44	0	0	1	1	2	3	5
45-54	0	1	2	2	3	4	5
55-61	0	1	3	2	4	6	8
62+	0	2	4	3	5	8	10